

US EPA ARCHIVE DOCUMENT

Manufacturing Industry (SOCMI). The Massachusetts Department of Environmental Quality Engineering has certified by letters, dated June 26, 1985 and August 13, 1985, that no sources in these categories are located within the State. EPA is accepting the DEQE's certification and codifying the information at 40 CFR 52.1168.

EPA is codifying this information without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective 60 days from today.

Final action: EPA is codifying at 40 CFR 52.1168, certifications that no Natural Gas/Gasoline Processing Plant and SOCMI Air Oxidation sources are located in the Commonwealth of Massachusetts.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Dated: November 8, 1985.

Lee M. Thomas,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Part 52 is amended by revising § 52.1168 to read as follows:

§ 52.1168 Certification of no sources

On June 26, 1985 and August 13, 1985, Bruce K. Maillet, Acting Director, Division of Air Quality Control, Department of Environmental Quality Engineering, submitted a certification that the Commonwealth of Massachusetts has no sources within the State which are covered by the following Control Technique Guidelines:

(a) Natural Gas/Gasoline Processing Plants.

(b) Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry.

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40 CFR Part 60

[A-3-FRL-2924-1; Docket No. AM700DC]

Air Pollution; New Source Performance Standards Delegation of Authority to the District of Columbia, Department of Consumer and Regulatory Affairs

AGENCY: Environmental Protection Agency.

ACTION: Delegation of Authority.

SUMMARY: Section 111(c) of the Clean Air Act permits EPA to delegate to the States the authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS).

The Mayor of the District of Columbia requested EPA to delegate, to the District of Columbia's Department of Consumer and Regulatory Affairs (DCRA), the authority to implement and enforce the NSPS in the District. EPA granted the request on September 5, 1985. The District now has the authority to implement and enforce NSPS regulations for: Fossil Fuel Fired Steam Generators built after August 17, 1971 (Subpart D), Incinerators (Subpart E), Asphalt Concrete Plants (Subpart I), Sewage Treatment Plants (Subpart O), Electric Steam Generating Units built after September 18, 1978 (Subpart Da), Stationary Gas Turbines (Subpart GG), and Storage Vessels for Petroleum Liquids built after May 18, 1973 (Subpart Ka).

The District will enforce all the above subparts as set forth in 40 CFR Part 60, July 1, 1982 edition.

EFFECTIVE DATE: July 5, 1985.

ADDRESS: Applications and reports required under all NSPS source categories to which EPA has delegated the authority to the District of Columbia DCRA to implement and enforce should be addressed to the District of Columbia, Department of Consumer and Regulatory Affairs, 5000 Overlook Avenue SW., Washington, DC 20032, in addition to EPA, Region III.

Copies of the delegation and accompanying documents are available for inspection during normal business hours at the District of Columbia DCRA address given above or at the following office: U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Attn: Patricia Gaughan (3AM11). Telephone: (215) 597-8239.

FOR FURTHER INFORMATION CONTACT: Michael Giuranna of EPA, Region III's Air Programs Branch, at (215) 597-9189.

SUPPLEMENTARY INFORMATION: In a letter of June 21, 1985 to EPA, the Mayor of the District of Columbia requested delegation of the authority to implement and enforce the New Source Performance Standards as set forth in 40 CFR Part 60, July 1, 1982 edition. EPA reviewed the request and decided to approve it since: (1) None of the seven applicable NSPS source categories had been significantly revised since the July 1, 1982 edition of the CFR had been published, and (2) the District was determined to have the necessary resources to effectively implement and enforce the NSPS.

Therefore, on September 5, 1985, the following letter delegating authority to implement and enforce NSPS, was sent to the Mayor of the District of Columbia:

Honorable Marion Barry Jr.,
Mayor, District of Columbia, District
Building, 1350 Pennsylvania Avenue
N.W., Washington, DC 20004.

Dear Mayor Barry: This is in response to your letter of June 21, 1985, to James M. Seif, Regional Administrator, requesting delegation of authority for implementation and enforcement of existing New Source Performance Standards (NSPS).

We have reviewed the pertinent laws and regulations of the District of Columbia's Department of Consumer and Regulatory Affairs (DCRA) and have determined that the DCRA has the resources to implement and enforce the NSPS program. Therefore, subject to the specific conditions and exceptions set forth below, the U.S. Environmental Protection Agency (EPA) hereby grants delegation of authority to the DCRA to implement and enforce the NSPS as follows:

Authority for all sources located or to be located in the District of Columbia subject to the NSPS promulgated in 40 CFR Part 60, July 1, 1982 edition.

This delegation is based upon the following conditions and exceptions.

1. This delegation replaces the Memorandum of Understanding between EPA and the DCRA of September 30, 1982.
2. Certain provisions of the NSPS regulations allow only the Administrator to take further standard setting actions. Such provisions cannot be delegated and are as follows:
 - a. Alternative means of emission limitations in the Clean Air Act Section 111(h)(3) which is codified in 40 CFR 60.11a and 60.484.
 - b. Innovative technology waivers in the Clean Air Act Section 111(j).
 - c. Alternative testing times for Primary Aluminum Reduction Plants in 40 CFR 60.195(b).
 - d. Approval of equivalent and alternate test methods in 40 CFR 60.8(b) (2) and (3).
 - e. Establishment of alternate opacity standards in 40 CFR 60.11(e).
 - f. Issuance of commercial demonstration permits under 40 CFR 60.45a.
 - g. The portions of the Stationary Gas Turbine Standards dealing with nitrogen fuel allowance in 40 CFR 60.332(a)(3) and the ambient condition correction factors in 40 CFR 60.335(a)(ii).
 - h. The authority to make applicability determinations pertaining to sources subject to the NSPS. The DCRA may refer to the Compendium of Applicability determinations issued by EPA annually, and updated quarterly. Any applicability determinations not explicitly treated in the EPA Compendium must be referred to EPA for determination. Also, any correspondence from the DCRA based on the Compendium must be sent to EPA to maintain National consistency.
3. The following provisions are included in this delegation and can only be exercised on a case-by-case basis. When any of these authorities are exercised, the DCRA must notify EPA, Region III in accordance with the reporting procedures referred to in item 6 of the conditions and exceptions:
 - a. Waiver of a performance test in accordance with 40 CFR 60.8(b)(4) or make minor modifications in accordance with 40 CFR 60.8(b)(1).
 - b. Determination of representative conditions for the purpose of conducting a performance test as allowed by 40 CFR 60.8(c).
 - c. Approval of shorter sampling times or smaller sampling volumes under 40 CFR 60.46 (b) or (d).
4. Enforcement of the NSPS regulations in the District of Columbia will be the primary responsibility of the DCRA. Pursuant to Section 111(c)(2) of the Clean Air Act, 42 U.S.C. 7411(c)(2), EPA retains authority to enforce any NSPS standard whenever such enforcement is deemed by the EPA to be necessary to carry out the purposes of the Clean Air Act. Where the DCRA determines that such enforcement is not feasible and so notifies EPA, or where the DCRA acts in a manner inconsistent with the terms of this

delegation, EPA will exercise its concurrent enforcement authority, pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the District of Columbia subject to NSPS regulations.

5. The DCRA will not grant a variance for compliance with the applicable NSPS regulations if such variance delays compliance with the Federal Standards (40 CFR Part 60). Should the DCRA grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulations and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such variances by the DCRA shall also constitute grounds for revocation of delegation by EPA.

6. The DCRA and EPA Region III will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of applicable regulations. In instances where there is a conflict between a DCRA interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the DCRA. This system of communication will insure that both agencies are informed on (a) the current compliance status of subject sources in the District of Columbia (b) the interpretation of applicable regulations; (c) the description of sources and source inventory data; and, (d) compliance test waivers and approvals listed in item 3 of the conditions and exceptions. The reporting provisions in 40 CFR 60.4 requiring sources to make submissions to the EPA are met by sending such submission to the DCRA, in addition to EPA Region III.

7. If at any time there is a conflict between a DCRA regulation and a Federal regulation, 40 CFR Part 60, the Federal regulation must be applied if it is more stringent than that of the DCRA. If the DCRA does not have the authority to enforce the more stringent Federal regulations, they shall notify EPA in writing as soon as possible, so that this portion of the delegation may be revoked.

8. The DCRA will utilize the methods in 40 CFR Part 60 in performing source tests pursuant to this regulation.

9. From time to time when appropriate, the DCRA will revise its NSPS regulations to include the provisions of Federal amendments and newly promulgated regulations for NSPS pollutant source categories.

10. If the Director of the Air Management Division, or equivalent, determines that a DCRA program for enforcing or implementing the NSPS regulations is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the DCRA.

A notice announcing this delegation will be published in the *Federal Register* in the near future. The notice will state, among other things, that effective immediately, all reports required pursuant to the above-referenced NSPS regulations by sources located in the District of Columbia will be submitted to the DCRA in addition to EPA, Region III. Any original reports which have been or may be

received by EPA Region III will be promptly transmitted to the DCRA.

Since this delegation is effective immediately, there is no requirement that the DCRA notify EPA of its acceptance. Unless EPA receives from the DCRA written notice of objections within ten (10) days of receipt of this letter, the DCRA will be deemed to have accepted all of the terms of the delegation.

Sincerely,

W. Ray Cunningham,

Director, Air Management Division.

Effective immediately all applications, reports, and other correspondence required under the NSPS for Fossil Fuel Fired Steam Generators built after August 17, 1971 (D), Incinerators (E), Asphalt Concrete Plants (I), Sewage Treatment Plants (O), Electric Steam Generating Units built after September 18, 1978 (Da), Stationary Gas Turbines (GG), and Storage Vessels for Petroleum Liquids built after May 18, 1973 (Ka) should be sent to the District of Columbia DCRA (address above) in addition to the EPA, Region III Office in Philadelphia.

This action delegates only the NSPS source categories mentioned above to the District of Columbia. A new request for delegation will be required for any NSPS standard not mentioned above.

List of Subjects in 40 CFR Part 60

Air pollution control, Sewage disposal, Petroleum, Electric power plants, Paving and roofing material.

Dated: October 21, 1985.

Stanley L. Laskowski,

Acting Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 74(c).

2. In § 60.4, Paragraph (b) is amended by adding paragraph (j) to read as follows:

§ 60.4 Address.

(b) * * *
(j) District of Columbia, Department of Consumer and Regulatory Affairs, 5000 Overlook Avenue SW., Washington, DC 20032.

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